

55. (New) A vaccine comprising the OMP106 polypeptide of claim 52.
56. (New) A vaccine comprising the OMP106 polypeptide of claim 52 and an adjuvant.

#### REMARKS

Claims 9, 10, 17, 18, 20, 22, 28, 33, 36-39, and 41 are cancelled without prejudice. Applicants fully reserve all rights to prosecute the subject matter of these claims in a continuation or divisional application. New Claims 42-56 are added by amendment herein. Upon entry of the present amendments, Claims 1-8, 11-16, 19, 21, 27, 29, 34, 35, 40 and 42-56 will be pending and under consideration.

Claim 8 is amended to recite the OMP106 polypeptide of claim 1 which specifically binds an antibody that specifically binds to an amino acid of sequence SEQ ID NO. 11. Support is found, e.g., in the specification at page 17, lines 16-26 and at page 19, lines 10-18. Claim 12 is amended to recite the OMP106 polypeptide of Claim 1, which comprises the amino acid sequence of SEQ ID NO. 11. Support is found, e.g., in the specification at page 17, lines 16-26.

Claim 34 is amended to be an independent claim in view of the cancellation of Claim 33 on which it depended. Amendment of claim 34 in no way changes the scope of this claim and especially does not narrow the claim in any way. It is noted that claim 34 is not amended in any way related to patentability, but only for a formality and is in no way narrowed in scope. Claim 34, as amended, is fully supported by the original specification and original claim 34. New claims 48 and 49 are added directed to a vaccine comprising the OMP106 polypeptide of claim 34, and comprising the polypeptide of claim 34 and an adjuvant. New claim 50 is directed to an antigenic composition comprising the polypeptide of claim 34. No new matter is added.

New claims 42-51 and 53-56 are fully supported by the specification and claims as originally filed. In particular, support for an antigenic composition comprising the OMP106 polypeptide of the invention and a pharmaceutically acceptable carrier is found, e.g., at pages 29-

30. Support for a vaccine comprising the OMP106 polypeptide of the invention and an adjuvant is found, e.g., at page 30, lines 9-17.

New claim 52 is directed to the OMP106 polypeptide of claim 1 which specifically binds to an antibody that specifically binds to the sequence of SEQ ID NO. 10. Support is found, e.g. at page 65, lines 6-7, page 19, lines 10-18.

#### **Requirement for Restriction**

-----Restriction to one of the following is required:-----

Group I - Claims 1-12, 17-18, 33-34 and 36, drawn to polypeptides, classified in class 530, subclass 350;

Group II - Claims 13-16 and 35, drawn to antibodies, classified in class 424, subclass 130.1;

Group III - Claims 19, 20, 37, 38, drawn to vaccines, classified in class 424, subclass 251.1;

Group IV - Claims 21, 22 and 39, drawn to compositions, classified in class 424, subclass 185.1;

Group V - Claims 27-28 and 40-41, drawn to a method of producing immune response, classified in class 424, subclass 9.2; and

Group VI - Claim 29, drawn to a method of producing a cultivar of a bacterial species, classified in class 435, subclass 253.1.

In addition, if Group I is chosen, election must be made among different species:

1a) election of one polypeptide species of Claims 1, 2, 5 or 9; and

1b) election of one polypeptide species of Claims 10, 11 or 33.

If Group II is chosen, election must be made among one of the antibodies of Claims 13, 14, 15 or 35.

If Group III is chosen, election must be made among one species of vaccines of Claims 19, 20, 37 or 38.

If Group IV is chosen, election must be made of one composition of Claims 21-22 and 39.

If Group V is chosen, one of the methods of Claims 27-28, 40 and 41 must be elected.

Attorney's for Applicants respectfully traverse and request reconsideration of the restriction requirement with respect to Groups I, III and IV directed, respectively, to the polypeptides, vaccines comprising the polypeptides and antigenic compositions comprising the polypeptides. Attorneys for Applicants do not traverse on the grounds that these inventions are not distinct; rather it is submitted that there would not be an extra search burden to examine the claims of Groups I, III and IV, of which all are directed to compositions comprising the novel polypeptides of the invention, in one application. Hence, it is requested that these groups be rejoined for examination in this application.

In order to be fully responsive, attorneys for Applicants elect, with traverse, to prosecute the subject matter of Group I directed to the polypeptides in this application. Present claims 1-6, 11, 12 and 34 read on elected Group I. It is requested that claims 19, 21, 27, 40, and 42-56 be examined in this application with the elected Group I claims.

Further, in response to the election of species requirements, attorneys for Applicants elect the polypeptides species as set forth below:

In response to the species election requirement designated 1a, attorneys for Applicants elect the species of claim 1. Claims 1, 3, 6, 8 and 11 read on this species. It is requested that claims 19, 21, 42-47 be examined with these elected species claims.

In response to the species election requirement designated 1b, attorneys for Applicants elect the species of claim 34. Claim 34 reads on this species. It is requested that claims 48-56 also be examined with this elected species claim.

**Notice under 37 C.F.R. §1.607(c)**

Under 37 C.F.R. §1.607(c), attorneys for Applicants give notice to the Examiner that at least claim 1 of the present application, which is identical to original claim 1 of the grand parent application filed May 3, 1996, claims the exactly the same or substantially the same subject matter of claims 1-13 of United States Patent No. 6,440,424 issued January 27, 2002, copy attached as Exhibit A.

Claim 1 of the present application corresponds exactly or substantially to claims 1-13 of United States Patent No. 6,440,424, issued January August 27, 2002, a copy of which is submitted herewith as Exhibit B. Claim 1 of the present application corresponds exactly or substantially to claims 1-6 of United States Patent No. 6,440,425, issued August 27, 2002, a copy of which is submitted herewith as Exhibit C.

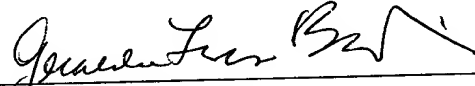
**Information Disclosure Statement**

It is noted that when the application was filed an Information Disclosure Statement with revised PTO 1449 listing References AA-AY was submitted. A copy of each of the cited references can be found in the parent application No. 08/968,685 filed November 12, 1997 or the grand parent 08/642,712 filed May 3, 1996. For convenience a copy of the previously submitted PTO 1449 Form is submitted herewith. It is requested that all the cited references be made of record in the file of this application.

In addition, a Supplemental Information Disclosure Statement with additional references will be submitted shortly.

Respectfully submitted,

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